

Message Text

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ACTION NEA-09

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FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC 8259

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FOR NEA/INS

E.O. 11652: N/A

TAGS: ETRA, IN

SUBJ: ARBITRATION DISPUTE

REF: NEW DELHI 5246

1. PLEASE PASS ON SUBSTANCE OF FOLLOWING REPORT TO BRIDGELAND.
2. ECONOMIC COUNSELOR MET WITH K.C. SHARMA, CHAIRMAN AND MANAGING DIRECTOR FCI ON APRIL 21. MEETING WAS CORDIAL AND BUSINESSLIKE BUT NO PROGRESS WAS MADE. SHARMA STATED THAT FCI WAS NOT INTERESTED IN BRIDGELAND'S SETTLEMENT OFFER AND WAS NOT PREPARED TO ADVANCE ANY SETTLEMENT PROPOSAL OF ITS OWN.
3. IN EXPLAINING THIS POSITION, SHARMA NOTED THE DIFFICULTIES FCI FACED IN VIEW OF THE PARLIAMENTARY INQUIRY COMMITTEE HANDLING THIS AND OTHER FCI PROBLEMS. FCI OFFICIALS HAD TESTIFIED THAT DIFFICULTIES IN TROMBAY PLANT HAD ARISEN FROM US FIRM'S INCOMPETENCE AND ANY NEGOTIATED SETTLEMENT AT THIS POINT WOULD APPEAR TO UNDERCUT THIS POSITION. THERE WAS, THEREFORE, NO POSSIBILITY OF FCI NEGOTIATING A SETTLEMENT AND THE TWO CASES WOULD HAVE TO PROCEED. SHARMA NOTED, HOWEVER, THAT " POLITICAL LEVEL" OF GOI COULD IMPOSE A SETTLEMENT ON FCI. FCI WOULD HAVE NO OBJECTION TO APPROPRIATE SETTLEMENT SO IMPOSED BUT RESPONSIBILITY WOULD HAVE TO BE TAKEN AT POLITICAL LEVEL.
4. ECONOMIC COUNSELOR NOTED THAT FCI HAD EARLIER PROPOSED

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ABANDONMENT OF BOTH SIDES' CLAIMS IN BOTH CASES. HE ASKED

WHETHER FCI WOULD BE WILLING TO TERMINATE CASE CURRENTLY UNDER ARBITRATION. SHARMAR REPLIED IN THE NEGATIVE.

5. ECONOMIC CONSELOR EXPRESSED HIS PERSONAL REGRET THAT FCI WAS NOT WILLING TOMOVE TOWARD A SETTLEMENT. HE NOTED THAT FCI PLANT EXPANSION PROPOSAL WOULD BE FINANCED BY WORLD BANK INVOLVED C&I INDUSTRIAL PROCESSE AND RAISED POSSIBILITY OF LEGAL PROBLEMS (SEE "TIMING AND APPROACH" PARAGRAPH IN BRIDGELAND'S LETTER OF MARCH 25). SHARMA STATED WORLD BANK WAS FULLY AWARE WHICH INDUSTRIAL PROCESS WOULD BE USED IN PLANT EXPANSION AND HAD ALREADY APPROVED FCI PROPOSAL. HE EXPECTED NO DIFFICULTY (SEE BELOW).

6. MEETING ENDED WITH SHARMA REPEATING HIS EARLIER STATEMENT THAT HE HAD NO OBJECTION TO EMBASSY TAKING MATTER TO POLITICAL LEVELS.

7. COMMENT: IN VIEW OF SHARMA COMMENTS WE SEE NO POINT IN EITHER BRIDGELAND OR EMBASSY PURSUING SETTLEMENT POSSIBILITY WITH FCI. FCI OBVIOUSLHUNOT PREPARED TO ACCEPT POSSIBLE POLITICAL CRITICISM FOR ANY KIND OF SETTLEMENT. IN VIEW OF ABOVE, WE WOULD APPRECIATE BRIDGELAND'S COMMENTS ON FOLLOWING:

A. DOES BRIDGELAND WISH EMBASSY TO TAKE MATTER TO "POLITICAL LEVELS." EMBASSY IS PREPARED TO DO SO AND WOULD DISCUSS MATTER WITH MINISTRY OF FINANCE AND MINISTRY OF PETROLEUM AND CHEMICALS. THE OUTLOOK FOR A SETTLEMENT AT THIS LEVEL IS UNKNOWN.

B. WOULD WOULD IN ANY CASE APPRECIATE CLARIFICATION OF ONE ASPECT OF BRIDGELANE'S PRESENTATION. BRIDGELAND NOTES THAT FCI HAS PURCHASED THE LICENSES FOR BOTH THE SULPHONITRIC AND CARBONITRIC PROCESSES. HE, HOWEVER, RAISES THE POSSIBILITY OF LEGAL ACTION FOR "WRONGFUL DUPLICATION OF PLANT." IS HE RASING THE POSSIBILIT F A SUIT AGAINST FCI ON PLANT DUPLICATION GROUNDS OTHER THAN PLANT PROCESS. IF BRIDGELAND THINKS HE HAS GOOD CASE ON THIS GROUND HE MIST WISH INFOR- MALLY TO PREPARE BRIEF ON IT AND SUBMIT IT TO FCI WITHIN NEXT FEW WEEKS. THIS IS THE ONLY LEVERAGE WITH FCI THAT WE CAN ENVISAGE.

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8. PLEASE SEND US BRIDGELAND'S COMMENTS.
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